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7 *Attorneys for Complainant*

8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **THERESA JEAN SMITH**
13 **aka THERESA JEAN LOYDE**
14 **1534 South Moodys Crossroad Road**
15 **Rutledge, AL 36071**
16 **Registered Nurse License No. 639286**

Case No. 2012-275

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

17 **FINDINGS OF FACT**

18 1. On or about October 31, 2011, Complainant Louise R. Bailey, M.Ed., RN, in her
19 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
20 Department of Consumer Affairs, filed Accusation No. 2012 275 against Theresa Jean Smith, aka
21 Theresa Jean Loyde (Respondent) before the Board. (Accusation attached as Exhibit A.)

22 2. On or about July 1, 2004, the Board issued Registered Nurse License No. 639286 to
23 Respondent. The Registered Nurse License expired on January 31, 2008, and has not been
24 renewed.

25 3. On or about October 31, 2011, Respondent was served by Certified and First Class
26 Mail copies of the Accusation No. 2012-275, Statement to Respondent, Notice of Defense,
27 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
28 and 11507.7) at Respondent's address of record which, pursuant to California Code of

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
2 which was and is:

3 1534 South Moodys Crossroad Road
4 Rutledge, AL 36071.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. On or about November 5, 2011, a return receipt for the aforementioned documents
9 were returned was signed and returned by the U.S. Postal Service.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
18 275.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 2012 275, finds
that the charges and allegations in Accusation No. 2012-275, are separately and severally, found
to be true and correct by clear and convincing evidence.

///

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$720.00 as of December 1, 2011.

4 **DETERMINATION OF ISSUES**

5 1. Based on the foregoing findings of fact, Respondent Theresa Jean Smith, aka Thersa
6 Jean Loyde has subjected Registered Nurse License No. 639286 to discipline.

7 2. The agency has jurisdiction to adjudicate this case by default.

8 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered
9 Nurse License based upon the violation of Business and Professions Code section 2761(a)(4) as
10 alleged in the Accusation for Out of State Discipline supported by evidence contained in the
11 Default Decision Evidence Packet and Exhibit to the Accusation.

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ORDER

IT IS ORDERED that Registered Nurse License No. 639286, heretofore issued to Respondent Theresa Jean Smith aka Thersa Jean Loyde, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on SEPTEMBER 26, 2012

It is so ORDERED AUGUST 27, 2012

Raymond Mallet

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

default decision_LIC.rtf
DOJ Matter ID:SA2011101325

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 ARTHUR D. TAGGART
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2012-275

12 **THERESA JEAN SMITH,**
13 **aka THERESA JEAN LOYDE**
14 **1534 South Moodys Crossroads Road**
Rutledge, AL 36071
Registered Nurse License No. 639286

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about July 1, 2004, the Board issued Registered Nurse License Number 639286
23 to Theresa Jean Smith, also known as Theresa Jean Loyde ("Respondent"). Respondent's
24 registered nurse license expired on January 31, 2008.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive

28 ///

1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811, subdivision
6 (b), the Board may renew an expired license at any time within eight years after the expiration.

7 5. Code section 2761 states, in pertinent part:

8 The board may take disciplinary action against a certified or licensed
9 nurse or deny an application for a certificate or license for any of the following:

10 (a) Unprofessional conduct, which includes, but is not limited to, the
11 following:

12 (4) Denial of licensure, revocation, suspension, restriction, or any other
13 disciplinary action against a health care professional license or certificate by another
14 state or territory of the United States, by any other government agency, or by another
15 California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action . . .

15 COST RECOVERY

16 6. Code section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licensee found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 CAUSE FOR DISCIPLINE

21 **(Disciplinary Action by the Arizona State Board of Nursing)**

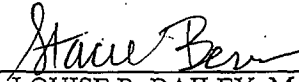
22 7. Respondent is subject to disciplinary action pursuant to Code section 2761,
23 subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by the
24 Arizona State Board of Nursing ("Arizona Board"), as follows: On or about March 11, 2011,
25 pursuant to Findings of Fact, Conclusions of Law, and Order No. 0903062 in the disciplinary
26 proceeding titled "In the Matter of Registered Nurse License No. RN 155936 issued to: Theresa
27 Jean Loyde (aka Smith)", the Arizona Board revoked Respondent's license to practice registered
28 nursing in the State of Arizona. A true and correct copy of Findings of Fact, Conclusions of Law,

1 and Order No. 0903062 is attached as **Exhibit A** and incorporated herein. As set forth in the
2 findings of fact, on March 23, 2009, the Arizona Board received a complaint from Western
3 Arizona Regional Medical Center ("WARMC"), alleging that Respondent was impaired and had
4 multiple narcotic discrepancies in or about February 2009, while working for Trustaff Agency
5 with an assignment at WARMC. The Board found during their investigation and review of seven
6 medical records that Respondent was responsible for multiple narcotic discrepancies as evidenced
7 in the records. Specifically, Respondent failed to document certain controlled substances,
8 including Dilaudid, Valium, Ativan, and Hydromorphone, as given, wasted, and/or returned to the
9 Pyxis; documented administering the controlled substance Lorazepam intravenously when the
10 medication was ordered to be given orally; failed to document the time that Valium was given in
11 another instance; documented giving a dose of Dilaudid before it was removed from the Pyxis;
12 and documented the administration of Lorazepam and Hydromorphone when there were no
13 orders for the medication.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 639286, issued to Theresa
18 Jean Smith, also known as Theresa Jean Loyde;
- 19 2. Ordering Theresa Jean Smith, also known as Theresa Jean Loyde, to pay the Board of
20 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: October 31, 2011 
25 for LOUISE R. BAILEY, M.ED., RN
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
State of California
Complainant

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EXHIBIT A

Findings of Fact, Conclusions of Law, and Order No. 0903062

Janice K. Brewer
Governor



Joey Ridenour
Executive Director

Arizona State Board of Nursing

4747 North 7th Street, Suite 200
Phoenix AZ 85014-3655
Phone (602) 771-7800 Fax (602) 771-7888
E-Mail: arizona@azbn.gov
Home Page: <http://www.azbn.gov>

AFFIDAVIT OF CUSTODIAN OF RECORDS

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **THERESA JEAN LOYDE**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85014-3655 on April 5, 2011.

SEAL

Joey Ridenour R.N. M.N. F.A.A.N.

Joey Ridenour, R.N., M.N., F.A.A.N.
Executive Director

Alabama
West Virginia
California ✓
Nebraska
Wyoming
Georgia

ARIZONA STATE BOARD OF NURSING
4747 North 7th Street, Ste 200
Phoenix, Arizona 85014-3655
602-771-7800

IN THE MATTER OF REGISTERED NURSE
LICENSE NO. RN155936
ISSUED TO:

THERESA JEAN LOYDE (aka SMITH)

Respondent.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER NO. 0903062**

On January 26, 2011, the Arizona State Board of Nursing ("Board") considered the State's Motion to Deem Allegations Admitted and Recommended Discipline and Respondent's Response to the Motion, if any, at the Arizona Board of Nursing, 4747 North 7th Street, Suite 200, Phoenix Arizona 85014-3655. Kim E. Zack, Assistant Attorney General, appeared on behalf of the State. Respondent was not present and was not represented by counsel.

On January 26, 2011, the Board granted the State's Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1663(F) and Notice of Charges No. 0903062 filed in this matter, the Board adopts the following Findings of Fact, Conclusions of Law, and **REVOKES** Respondent's registered nurse license.

FINDINGS OF FACT

1. Theresa Jean Loyde ("Respondent") holds Board issued registered nurse license no. RN155936.

2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664 to impose disciplinary sanctions against the holders of nursing licenses for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1667.

1 3. On March 23, 2009 the Board received a complaint from Joanne Kimball, Chief Nurse
2 Officer, Western Arizona Regional Medical Center ("WARMC"), alleging Respondent was impaired
3 and had multiple narcotic discrepancies in or about February 2009 while working for Trustaff Agency
4 with an assignment at "WARMC." Based upon this complaint the Board conducted an investigation.
5

6 4. From on or about January 10, 2009 until on or about February 27, 2009, Respondent was
7 employed at Trustaff Agency.
8

9 5. During the course of the investigation Board staff reviewed seven medical records with
10 the following discrepancies identified:
11

12 a. According to the Pyxis report, in medical record #210374, on or about February
13 2, 2009, Respondent removed Dilaudid 1mg at 00:53 and 2mg at 00:59. Respondent documented 1mg
14 as given at 00:50. Dilaudid 2mg was removed at 00:59 and not documented as given, wasted or
15 returned to the Pyxis.

16 b. According to the Pyxis report, in medical record #295159, on or about February
17 2, 2009, Respondent removed Valium 10mg IV at 2:13 and documented giving 5mg at 2:20. Valium
18 5mg was not documented as given wasted or returned to the Pyxis.

19 c. According to the Pyxis report, in medical record #258992, on or about February
20 5, 2009, Respondent removed Dilaudid 2mg/ml at 00:54 and documented giving 1mg at 00:22.
21 Dilaudid 1mg was not documented as given wasted or returned to the Pyxis.
22

23 d. According to the Pyxis report, in medical record #254417, on or about February
24 16, 2009, Respondent removed Lorazepam 1mg IV and documented giving the dose intravenously at
25 19:35. However the medication was ordered to be given orally and not intravenously. Respondent
26 removed Valium 5mg at 21:18 but failed to document the time that the medication was given.
27
28
29

1 e. According to the Pyxis report, in medical record #90314, Respondent removed
2 Dilaudid 2mg at 23:14 and the dose was cancelled. At 23:18 Dilaudid 2mg IV was removed. The dose
3 was documented as given at 23:04 and 23:23. Respondent documented giving the dose before it was
4 removed from the Pyxis.
5

6 f. According to the Pyxis report, in medical record #238319, Respondent removed
7 Ativan 1mg at 1:33 and documented it as given at 1:42. A second dose of Ativan 1mg was removed at
8 1:58. Respondent did not document this dose as given wasted or returned to the Pyxis.
9

10 g. According to the pyxis report, in medical record #301191, Respondent removed
11 Lorazepam 2mg at 00:59 and 02:54 and documented both doses as given at 02:19. A total of
12 Lorazepam 4mg was documented as given. There was no order for this medication. Respondent
13 removed Hydromorphone 1mg at 23:35, 01:00, 2:54 and Hydromorphone 2mg at 3:20. Respondent
14 documented giving Hydromorphone 2mg at 2:19. Respondent did not document Hydromorphone 3mg
15 as given wasted or returned to the Pyxis. There were no orders for this medication.
16

17 6. On or about April 18, 2009, Respondent's contract with WARMC was ended and
18 Respondent was terminated from Truststaff on or about February 27, 2009. She is not eligible for rehire.
19

20 CONCLUSIONS OF LAW

21 1. The conduct and circumstances described in the Findings of Fact constitute violations of
22 A.R.S. § 32-1663 (D) as defined in A.R.S. § 32-1601(18) (d) (Any conduct or practice that is or might
23 be harmful or dangerous to the health of a patient or the public); and (j) (Violating a rule that is adopted
24 by the board pursuant to this chapter) (effective October 14, 2009), specifically the following:
25

- 26 - A.A.C. § R4-19-403 (1) (A pattern of failure to maintain minimum standards of acceptable and
27 prevailing nursing practice) (effective February 2, 2009);
- 28 - A.A.C. § R4-19-403 (7) (Failing to maintain for a patient record that accurately reflects
29

1 the nursing assessment, care, treatment, and other nursing services provided to the patient)
2 (effective February 2, 2009);

3 - A.A.C. § R4-19-403(31) (Practicing in any other manner that gives the Board reasonable cause
4 to believe the health of a patient or the public may be harmed) (effective February 2, 2009).

5 2. The conduct and circumstances described in the Findings of Fact constitute sufficient
6 cause pursuant to A.R.S. § 32-1664 (N) to suspend or revoke registered nurse license number
7 RN155936 of Theresa Jean Loyde to practice as a registered nurse in the State of Arizona.

8 **ORDER**

9 In view of the above Findings of Fact and Conclusions of Law, the Board issues the following
10 Order:
11

12 Pursuant to A.R.S. § 32-1664(N), the Board hereby **REVOKES** registered nurse license
13 number RN155936 issued to Theresa Jean Loyde.

14 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

15 Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing
16 or review within 30 days after service of this decision with the Arizona State Board of Nursing.
17 The motion for rehearing or review shall be made to the attention of Vicky Driver, Arizona State
18 Board of Nursing, 4747 North 7th Street Ste 200, Phoenix AZ 85014-3655, and must set forth
19 legally sufficient reasons for granting a rehearing. A.A.C. R4-19-608.
20

21 For answers to questions regarding a rehearing, contact Vicky Driver at (602) 771-7852.
22 Pursuant to A.R.S. § 41-1092.09(B), if Respondent fails to file a motion for rehearing or review
23 within 30 days after service of this decision, Respondent shall be prohibited from seeking judicial
24 review of this decision.
25

26 This decision is effective upon expiration of the time for filing a request for rehearing or
27 review, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.
28
29

1 Respondent may apply for reinstatement of said license pursuant to A.A.C. R4-19-404 after a
2 period of five years.

3 DATED this 26th day of January, 2011.

4 ARIZONA STATE BOARD OF NURSING

5 SEAL

6 *Joey Ridenour R.N. M.N. F.A.A.N.*

7 Joey Ridenour, R.N., M.N., F.A.A.N.
8 Executive Director

9
10 COPIES mailed this 3rd day of February, 2011, by Certified Mail No. 7009 0080 0000 0431 5533 and
11 First Class Mail to:

12 Theresa Jean Loyde
13 3112 Avenue S
14 Birmingham AL 35208

15 COPIES mailed this 3rd day of February, 2011, by First Class Mail to:

16 Kim E. Zack
17 Assistant Attorney General
18 1275 W Washington
19 Phoenix AZ 85007

20 By: Vicky Driver
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